Journal of the House

State of Indiana

113th General Assembly *First Regular Session*

Eleventh Meeting Day **Tuesday Afternoon** **January 28, 2003**

The House convened at 1:00 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Willis Johnson, First Baptist Church North, Indianapolis, the guest of Representative Vernon G. Smith.

The Pledge of Allegiance to the Flag was led by Representative Chester F. Dobis.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante ⏏
Avery ⏏	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain ⏏
T. Brown	Moses
Buck	Murphy
Budak	Neese
Buell ⏏	Noe
Burton ⏏	Orentlicher
Cheney	Oxley ⏏
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks ⏏	Porter
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell ⏏
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount ⏏
Koch	Mr. Speaker

Roll Call 20: 91 present; 9 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, January 30, 2003, at 10:00 a.m.

BISCHOFF

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 58, 71, 114, 115, 151, and 153 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 6 and 7 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Resolution 4

Representative GiaQuinta introduced House Resolution 4:

A HOUSE RESOLUTION commemorating the courage and love of country displayed by the members of the 1st Battalion 152nd Infantry of the Indiana Army National Guard.

Whereas, Patriotism means the willingness to stand by your country in good and bad times;

Whereas, The men and women of the 1st Battalion 152nd Infantry are doing just that;

Whereas, These brave men and women are placing their lives on hold to defend their country in the face of threats from abroad;

Whereas, Throughout our nation's history, men and women have responded to their country's call with great bravery and honor. Each one of these men and women is a hero in his own right;

Whereas, Our country has been and continues to be a champion of freedom and human rights;

Whereas, The cost of this freedom is very expensive, but Hoosiers have always been willing to pay the price to ensure the preservation of liberty for all Americans and citizens of the world;

Whereas, The members of the 1st Battalion 152nd Infantry currently stationed at Camp Atterbury are members of an elite group to whom we owe so much; and

Whereas, May God bless America and the families, friends, and loved ones of these soldiers who serve their country so bravely and honorably: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives wishes to express its gratitude to the men and women of the 1st Battalion 152nd Infantry for the sacrifices they are making in order to respond to their country's call to make sure that the bell of freedom can continue to ring throughout the world.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the men and women of the 1st Battalion 152nd Infantry.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Any firm, individual, partnership, limited liability company, or corporation that is awarded a contract by the state, a political subdivision, or a municipal corporation for the construction of a public work, and any subcontractor of the construction, shall pay for each class of work described in subsection (c)(1) on the project a scale of wages that may not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction wage is in the county, the awarding governmental agency, before advertising for the contract, shall set up a committee of five (5) persons as follows:

(1) One (1) person representing labor, to be named by the president of the state federation of labor.

(2) One (1) person representing industry, to be named by the awarding agency.

(3) A third member to be named by the governor.

(4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and, **using a procedure that meets the requirements set forth in section 1.5 of this chapter, shall** determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:

(A) Skilled labor.

(B) Semiskilled labor.

(C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

In making its determination, the committee ~~is not required to~~ **shall** consider **only** information ~~not~~ presented to the committee at the meeting **that is conducted in accordance with section 1.5 of this chapter.** IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

(e) The provisions of this chapter shall not apply to contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

(f) A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks prior to the date fixed for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(g) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time required under subsection (f), the awarding agency shall make the determination. ~~and its finding shall be final.~~

(h) **If a person has substantial reason to believe that a committee's determination under subsection (c) or an awarding agency's determination under subsection (g) does not comply with this chapter, the person may request, not later than ten (10) days after the date of the determination, that the department of labor review the determination:**

(1) to determine whether it complies with this chapter; and

(2) if the determination does not comply with this chapter, to establish the rate of wages for the project.

(i) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

~~(i)~~ **(j)** The provisions of this chapter do not apply to public projects in this state that would otherwise be subject to the provisions of this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant shall consent in writing that the provisions of this chapter are applicable to the project.

~~(j)~~ **(k)** Notwithstanding any other law, the provisions of this chapter apply to projects that will be:

(1) owned entirely; or

(2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

~~(k)~~ **(l)** Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than one hundred fifty thousand dollars ($150,000).

SECTION 2. IC 5-16-7-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. In making the determination required under section 1(c) of this chapter, the committee shall use a procedure that meets the following requirements:**

(1) The committee shall consider the following as evidence of the common construction wage currently being paid in the county where the project is located:

(A) Data presented by the department of workforce development.

(B) Collective bargaining agreements, if applicable.

(C) Other information submitted by interested parties.

(2) The evidence considered by the committee under subdivision (1) is limited to the wages and benefits currently being paid by construction industry employers.

(3) All testimony presented to the committee must be made under oath or affirmation.

(4) Any part of the evidence may be submitted in written form if doing so will expedite the meeting.

(5) Documentary evidence may be received in the form of a copy or an excerpt.

(6) To the extent necessary for full disclosure of all relevant facts and issues, the committee shall afford all interested parties the opportunity to present evidence and arguments and to respond to evidence presented by other interested parties.

(7) The committee's written determination must list the evidence or sources that the committee relied upon in making the determination.

SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter, ~~after having considered:~~

~~(A) reports from the department of workforce development; and~~

~~(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.~~

using a procedure that meets the requirements set forth in

section 1.5 of this chapter.

(2) "State of Indiana" includes any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of the state, excepting as otherwise provided in this chapter.

(3) "Municipal corporation" includes any county, city, town, or school corporation, as well as any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of any such municipal corporation. The term also includes a redevelopment commission established under IC 36-7-14-3.

(4) "Public work" includes any public building, highway, street, alley, bridge, sewer, drain, improvement, or any other work of any nature or character whatsoever which is paid for out of public funds, excepting as otherwise provided in this chapter.

SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The department of labor shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 5. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22. The commissioner of labor shall do the following:**

(1) Verify compliance with and investigate matters related to IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and IC 22-3-7-34.6.

(2) Hire additional staff for the purpose of carrying the enforcement of IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and IC 22-3-7-34.6.

(3) Adopt rules under IC 4-22-2 to implement IC 22-3-2-14.6 and IC 22-3-7-34.6.

SECTION 6. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is hereby created the worker's compensation board of Indiana, which shall consist of seven (7) members, not more than four (4) of whom shall belong to the same political party, appointed by the governor, one (1) of whom ~~he~~ **the governor** shall designate as ~~chairman.~~ **chair.** The ~~chairman~~ **chair** of said board shall be an attorney of recognized qualifications.

(b) Each member of said board shall hold office for four (4) years and until ~~his~~ **the member's** successor is appointed and qualified.

(c) Each member of the board shall devote ~~his~~ **the member's** entire time to the discharge of the duties of ~~his~~ **the member's** office and shall not hold any other position of trust or profit or engage in any occupation or business interfering with or inconsistent with the discharge of ~~his~~ **the member's** duties as such member.

(d) Any member of said board may be removed by the governor at any time for incompetency, neglect of duty, misconduct in office, or other good cause to be stated in writing in the order of removal. In case of a vacancy in the membership of the said board, the governor shall appoint for the unexpired term.

(e) The budget agency, with the approval of the governor, shall approve the salaries of the members of the board and the secretary.

(f) The board may appoint a secretary and may remove such secretary. The secretary shall have authority to administer oaths and issue subpoenas in connection with the administration of IC 22-3-2 through IC 22-3-7.

(g) **The board may appoint magistrates and may remove the magistrates.**

(h) The board, subject to the approval of the governor, may employ and fix the compensations of such clerical and other assistants as it may deem necessary.

~~(h)~~ **(i)** The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be approved by the chairman of the board before payment is made.

~~(i)~~ **(j)** All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

SECTION 7. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The worker's compensation board may adopt rules under IC 4-22-2 to carry into effect the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) The worker's compensation board is authorized:

(1) to hear, determine, and review all claims for compensation under IC 22-3-2 through IC 22-3-7;

(2) to require medical service for injured employees;

(3) to approve claims for medical service or attorney's fees and the charges for nurses and hospitals;

(4) to approve agreements;

(5) to modify or change awards;

(6) to make conclusions of facts and rulings of law;

(7) to certify questions of law to the court of appeals;

(8) to approve deductions in compensation made by employers for amounts paid in excess of the amount required by law;

(9) to approve agreements between an employer and an employee or the employee's dependents for the cash payment of compensation in a lump sum, or, in the case of a person under eighteen (18) years of age, to order cash payments;

(10) to establish and maintain a list of independent medical examiners and to order physical examinations;

(11) to subpoena witnesses **and order the production and examination of books, papers, and records;**

(12) to administer oaths;

(13) to apply to the circuit or superior court to enforce the attendance and testimony of witnesses and the production and examination of books, papers, and records;

(14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;

(15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; ~~and~~

(16) **to appoint board magistrates to determine issues arising under IC 22-3-2 through IC 22-3-7 subject to the limitations set forth in section 3.1(b) of this chapter; and**

(17) to exercise all other powers and duties conferred upon the board by law.

SECTION 8. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) A magistrate appointed by the worker's compensation board may do the following:**

(1) Administer an oath or affirmation that is required by law.

(2) Order that a subpoena be issued in a matter pending before the board.

(3) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(b) A magistrate appointed by the worker's compensation board may do the following:

(1) Conduct a prehearing conference or an evidentiary hearing.

(2) Determine issues arising under IC 22-3-2 through IC 22-3-7 with the following exceptions:

(A) Claims regarding the compensability of an injury or a disease arising out of and in the course of employment under IC 22-3-2-2(a) or IC 22-3-7-2(a).

(B) A determination as to whether one (1) of the special defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b) operates as a bar to the employee's claim.

(C) A determination as to whether the employee is permanently and totally disabled for purposes of IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.

(D) The approval of settlement agreements under IC 22-3-2-15.

(E) Issues involving a lack of diligence, bad faith, or an independent tort under IC 22-3-4-12.1.

SECTION 9. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.2. A magistrate shall report the magistrate's findings in an evidentiary hearing to the board. A board member shall enter the final order or award. The final**

order or award is subject to full board review under IC 22-3-4-7.

SECTION 10. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) Except as provided in IC 22-3-7-2.5, a school to work student is entitled to the following compensation and benefits under this article:

(1) Medical benefits under IC 22-3-2 through IC 22-3-6.

(2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars ($175,000), **subject to section 8(c) of this chapter,** payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under IC 22-3-3-21.

(c) For the sole purpose of modifying an award under IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this article:

(1) Temporary total disability compensation under IC 22-3-3-8.

(2) Temporary partial disability compensation under IC 22-3-3-9.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 11. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** ~~No~~ **Each payment of** compensation ~~is~~ allowed **under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 is reduced by twenty percent (20%)** for an injury or death due to the employee's:

(1) ~~knowingly self-inflicted injury, his~~ intoxication;

(2) ~~his~~ commission of an offense; ~~his~~

(3) knowing **and willful** failure to use a safety appliance;

(4) ~~his~~ knowing **and willful** failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or

(5) ~~his~~ knowing **and willful** failure to perform any statutory duty.

~~The burden of proof is on the defendant.~~

(b) No compensation is allowed for an employee's knowing and willful self-inflicted injury or death.

(c) Each payment of compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by thirty percent (30%) for an injury or a death due to the employer's intentional failure to comply with a statute or an administrative regulation regarding safety methods or installation or maintenance of safety appliances.

(d) The defendant has the burden of proof under subsections (a) and (b).

SECTION 12. IC 22-3-2-14.5, AS AMENDED BY P.L.202-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "independent contractor" refers to a person described in IC 22-3-6-1(b)(7).

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the compensation provisions of IC 22-3-2 through IC 22-3-6 and must file a statement with the department of state revenue in accordance with IC 6-3-7-5 and obtain a certificate of exemption.

(d) Together with the statement required in subsection (c), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(e) An independent contractor shall pay a filing fee in the amount of fifteen dollars ($15) with the certificate filed under subsection (g). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund. ~~and~~ **Thirty-four percent (34%) of the money in the fund** shall be ~~used~~ **allocated** for all expenses the board incurs **in administering this section. Sixty-six percent (66%) of the money in the fund shall be allocated for the enforcement of section 14.6 of this chapter, including the costs of hiring additional staff required by the department of labor.**

(f) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(g) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing the information required in subsections (d) and (f).

(h) A person who contracts for services of another person not covered by IC 22-3-2 through IC 22-3-6 to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(i) A stamped certificate filed under this section is binding on and holds harmless from all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

SECTION 13. IC 22-3-2-14.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.6. (a) As used in this section, "person" has the meaning set forth in section 14.5 of this chapter.**

(b) A person who does any of the following is subject to a civil penalty under this section:

(1) Fails to obtain a copy of another person's stamped certificate of exemption as required under section 14.5(h) of this chapter before that person performs work on the person's behalf as an independent contractor.

(2) Fails to keep a copy of another person's stamped certificate of exemption on file as long as that person is performing work on the person's behalf as an independent contractor.

(c) If the department of labor determines that a person has violated subsection (b)(1) or (b)(2), the department of labor may assess a civil penalty of not more than one thousand dollars ($1,000) for each violation, plus any investigative costs incurred and documented by the department of labor. If the department of labor determines that a civil penalty is warranted, the department of labor shall consider the following factors in determining the amount of the penalty:

(1) Whether the person performing work as an independent

contractor meets the definition of an independent contractor under IC 22-3-6-1(b)(7).

(2) Whether the violation was an isolated event or part of a pattern of violations.

(d) All civil penalties collected under this section shall be deposited in the worker's compensation board's second injury fund created under IC 22-3-3-13.

(e) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-2-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3, unless a person requests an administrative review not later than thirty (30) days after the notice of assessment is given.

(f) The department of labor shall provide copies of its determinations under this section to the worker's compensation board and the department of state revenue.

SECTION 14. IC 22-3-3-4, AS AMENDED BY P.L.31-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) **After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:**

(1) the employee makes the transfer request;

(2) the attending physician requests that the physician's treatment of the employee be discontinued; or

(3) the worker's compensation board determines that there is good cause for the transfer.

(d) If the employer or the employer's insurance carrier desires to transfer or redirect the employee's medical treatment for good cause, the employer or the employer's insurance carrier shall file a transfer request with the worker's compensation board on forms prescribed by the board. A transfer may not occur until the worker's compensation board issues an order granting the transfer request.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all the following provisions:

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and ~~his~~ **the employee's** right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead** of the physician or surgeon and other medical services and supplies required under this section.

~~(d)~~ **(g)** If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(h)** Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(f)~~ **(i)** If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

~~(g)~~ **(j)** This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

(1) medical care furnished by health care providers selected by agreement before or after injury; or

(2) the findings of a health care provider who was chosen by agreement.

SECTION 15. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the industrial board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and ~~his~~ **the employee's** right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the budget agency. If such examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employer. Such statement shall be furnished to the employee or the employee's representative, as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(d) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the industrial board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(e) **A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all the following provisions:**

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

~~(f)~~ **(g)** Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such action shall be construed as delivery to the employer or employee.

~~(g)~~ **(h)** Any party may object to a statement on the basis that the statement does not meet the requirements of subsection ~~(c).~~ **(f).** The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(c).~~ **(f).**

~~(h)~~ **(i)** The employer upon proper application, or the worker's

compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the worker's compensation board orders an autopsy and such autopsy is refused by the surviving spouse or next of kin, then any claim for compensation on account of such death shall be suspended and abated during such refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in the discharge of the coroner's duties, shall be held in any case by any person, without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the worker's compensation board.

SECTION 16. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

If a determination of liability is not made within thirty (30) days after the date of injury, and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disability begins. An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to any employment;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; ~~or~~

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury; **or**

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 33 of this chapter.

In all other cases the employer must notify the employee in writing **not later than thirty (30) days before the effective date of the termination** of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

SECTION 17. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section 22 of this chapter** a period not to

exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages up to one hundred ~~and~~ thirty-five dollars ~~($135.00)~~ **($135)** average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22,~~ **section 22 of this chapter,** for a period not to exceed five hundred (500) weeks. **If an employee who has sustained a compensable injury returns to work and suffers a later period of disability due to that injury after June 30, 2003, the average weekly wage for that period of disability shall be determined based on the employee's average weekly wage at the time of the disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in section 22 of this chapter.** Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) Each payment of compensation allowed under subsection (a) is reduced or increased as provided in IC 22-3-2-8.

SECTION 18. IC 22-3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** With respect to injuries occurring prior to April 1, 1951, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to fifty-five per cent (55%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1974, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to sixty per cent (60%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after July 1, 1974, causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability as prescribed in section 7 of this chapter, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between ~~his~~ **the employee's** average weekly wages and the weekly wages at which ~~he~~ **the employee** is actually employed after the injury, for a period not to exceed three hundred (300) weeks. In case the partial disability begins after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(b) Each payment of compensation allowed under subsection (a) is reduced or increased as provided in IC 22-3-2-8.

SECTION 19. IC 22-3-3-10, AS AMENDED BY P.L.31-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of ~~his~~ **the employee's** average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered

as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2003,** for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree;

for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars ($2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars ($2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars ($3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars ($3,906) per degree.

(10) With respect to injuries occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars ($2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars ($3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars ($3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars ($4,531) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2003,** eight hundred eighty-two dollars ($882).

(11) With respect to injuries occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars ($948).

(12) With respect to injuries occurring on or after July 1, 2004, one thousand fourteen dollars ($1,014).

(f) With respect to injuries occurring on or after July 1, 2003, each payment of compensation allowed under this section is reduced or increased as provided in IC 22-3-2-8.

SECTION 20. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed ~~two~~ **three** and one-half percent ~~(2.5%)~~ **(3.5%)** of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. ~~If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars ($1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars ($1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund.~~ The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the

statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation ~~and expense of medical examinations or treatment made and~~ **as** ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum ~~benefits~~ **compensation** under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

(k) Each:

(1) insurance carrier or other entity insuring or providing coverage to an employer that is or may be liable to pay compensation for personal injuries to or for death of the employer's employees under this article; and

(2) employer carrying the employer's own risk;

that does not comply with this section is subject to a fine of two hundred fifty dollars ($250) that shall be paid into the second injury fund created under subsection (b).

(l) In addition to assessing the fine provided under subsection (k), the board shall refer an insurance carrier that does not comply with this section to the department of insurance for administrative action for committing an unfair or a deceptive act and practice under IC 27-4-1.

SECTION 21. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars ($70) nor less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars ($75) and not less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars ($85) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars ($95) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars ($100) if no dependents; (2) one hundred five dollars ($105) if one (1) dependent; (3) one hundred ten dollars ($110) if two (2) dependents; (4) one hundred fifteen dollars ($115) if three (3) dependents; (5) one hundred twenty dollars ($120) if four (4) dependents; and (6) one hundred twenty-five dollars ($125) if five (5) or more dependents; and (B) Not less than thirty-five dollars ($35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars ($135), and (B) not less than seventy-five dollars ($75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars ($156) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars ($180); and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars ($195), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars ($210), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars ($234) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars ($249) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with

respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars ($267) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars ($285) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars ($384) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be (1) not more than four hundred eleven dollars ($411) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be (1) not more than four hundred forty-one dollars ($441) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be (1) not more than four hundred ninety-two dollars ($492) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be (1) not more than five hundred forty dollars ($540) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be (1) not more than five hundred ninety-one dollars ($591) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars ($642) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75); ~~and~~

(6) with respect to injuries occurring on and after July 1, 2002, **and before July 1, 2003:**

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75);

(7) with respect to injuries occurring on and after July 1, 2003, and before July 1, 2004:

(A) not more than nine hundred forty-eight dollars ($948); and

(B) not less than two hundred six dollars ($206); and

(8) with respect to injuries occurring on and after July 1, 2004:

(A) not more than one thousand fourteen dollars ($1,014); and

(B) not less than two hundred six dollars ($206).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars ($12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars ($15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars ($16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars ($20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars ($25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation

exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars ($30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars ($45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars ($52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars ($60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars ($65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy thousand dollars ($70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars ($78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars ($83,000) in any case. With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars ($95,000) in any case. With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars ($180,000) in any case.

With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(e) **Subject to IC 22-3-2-8,** the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2003,** two hundred ninety-four thousand dollars ($294,000).

(7) With respect to an injury occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation as set forth in section 8 of this chapter, plus one hundred (100) degrees of permanent partial impairment as set forth in section 10 of this chapter.

SECTION 22. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not **have jurisdiction to** make any ~~such~~ modification upon its own motion ~~nor shall~~ **or upon** any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing. ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

SECTION 23. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 33. (a) If an employee:**

(1) receives an injury that results in a temporary total disability or a temporary partial disability;

(2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury; and

(3) is enrolled in a training program approved by:

(A) the incumbent workers training board established by IC 22-4-18.3-2; or

(B) the unemployment insurance board created by IC 22-4-18-2;

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

(1) fifty-two (52) consecutive weeks; or

(2) seventy-eight (78) total weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the difference between the employee's average weekly wage from employment at the time of the injury and the employee's average weekly wage from employment after the injury with the permanent restrictions or limitations resulting from the injury.

(d) The amount of disabled from trade compensation may not exceed the maximum average weekly wage amounts set forth in section 22 of this chapter.

(e) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

(1) an explanation of the limitations or restrictions placed on the employee;

(2) the amount of disabled from trade compensation the employee has been awarded; and

(3) information for the employee regarding the terms of this section.

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 24. IC 22-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The worker's compensation board may make rules not inconsistent with IC 22-3-2 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through IC 22-3-6. Processes and procedures under IC 22-3-2 through IC 22-3-6 shall be as summary and simple as reasonably may be. The board or any member of the board shall have the power for the purpose of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board **and magistrates appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

SECTION 25. IC 22-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed by the board of the time and place of all hearings and requests for continuances. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, **or** in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

SECTION 26. IC 22-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board by any or all of its members **or magistrates appointed under IC 22-3-1-1** shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent to each of the employee, employer, and attorney of record in the dispute.

SECTION 27. IC 22-3-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. In all proceedings before the worker's compensation board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of ten percent (10%) per year, accruing from the date of filing of the application of adjustment of claim as determined under section 5(a) of this chapter.**

SECTION 28. IC 22-3-6-1, AS AMENDED BY P.L.202-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue

for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other
persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-8.1-4-25, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-10.1-6-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the
number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of ~~his~~ **the employee's** earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-10.1-6-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(5) In computing the average weekly wage for an employee who:

(A) has sustained a compensable occupational disease;

(B) has returned to work; and

(C) sustains a later period of disability due to that occupational disease after June 30, 2003;

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in IC 22-3-3-22.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 29. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits.

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars ($175,000), **subject to section 21 of this chapter,** payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

SECTION 30. IC 22-3-7-16, AS AMENDED BY P.L.1-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

If a determination of liability is not made within thirty (30) days after the date the disablement begins, and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disablement begins.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; ~~or~~

(5) the employee is unable or unavailable to work for reasons

unrelated to the compensable disease; **or**

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 16.5 of this chapter.

In all other cases the employer must notify the employee in writing **not later than thirty (30) days before the effective date of the termination** of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, up to one hundred thirty-five dollars ($135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which ~~he~~ **the employee** is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of ~~his~~ **the employee's** average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the

employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the

loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2003,** for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to disablements occurring on and after

July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars ($2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars ($2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars ($3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars ($3,906) per degree.

(10) With respect to disablements occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars ($2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars ($3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars ($3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars ($4,531) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2002, **and before July 1, 2003,** eight hundred eighty-two dollars ($882).

(11) With respect to disablements occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars ($948).

(12) With respect to disablements occurring on or after July 1, 2004, one thousand fourteen dollars ($1,014).

(j) If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity, ~~procured for him,~~ ~~he~~ **the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by

agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

(t) Each payment of compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 31. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.1. (a) As used in this section, "board" refers to the worker's compensation board created by IC 22-3-1-1.**

(b) If an employee suffers a second disablement from occupational disease resulting in the permanent and total impairment of the employee, the employer is liable only for the compensation payable for the second injury. However, in addition to the compensation payable for the second injury and after the employer completes the payment of the compensation, the employee shall be paid the remainder of the compensation that would be due for the total permanent impairment out of the occupational disease second injury fund.

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers that are or may be liable under this article to pay compensation for personal injuries to or the death of one (1) of their employees from an occupational disease; and

(2) each employer carrying the employer's own risk for personal injuries to or the death of one (1) of its employees from an occupational disease;

stating that an assessment is necessary. The board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier insuring employers that are or may be liable under this article to pay compensation for disablement or death from occupational diseases of their employees under this article and every employer carrying the employer's own risk shall, not later than thirty (30) days after receiving notice from the board, pay to the worker's compensation board for the benefit of the occupational disease second injury fund. The payment shall be in a sum equal to three and one-half percent (3.5%) of the total amount of all payments under this chapter for occupational diseases paid to employees with occupational diseases or their beneficiaries under this chapter for the calendar year next preceding the due date of the payment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer that is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The occupational diseases second injury fund is created. The sums under this section shall be paid by the worker's compensation board to the treasurer of state, to be deposited in the occupational diseases second injury fund. The fund is not part of the state general fund. Any balance remaining in the account at the end of any fiscal year does not revert to the state general fund. The fund shall be used only for the payment of awards of compensation ordered by the board and chargeable against the occupational diseases second injury fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under this chapter either:

(1) exhausts the maximum benefits under section 19 of this chapter without having received the full amount of award granted to the employee under section 16 of this chapter; or

(2) exhausts the employee's benefits under section 16 of this chapter;

the employee may apply to the worker's compensation board, which may award the employee compensation from the occupational diseases second injury fund established by this section, as provided under subsection (b).

(h) An employee who has exhausted the employee's maximum compensation under section 16 of this chapter may be awarded reasonable amounts of compensation taking into consideration the employee's average weekly wage at the time of the employee's disablement, the number of recipients entitled to compensation from the occupational diseases second injury fund, and the amount of money within the occupational diseases second injury fund at the time of the application, not to exceed the maximum then applicable under section 19 of this chapter, for a period not to exceed one hundred fifty (150) weeks, upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

(j) Each:

(1) insurance carrier or other entity insuring or providing coverage to an employer that is or may be liable under this article to pay compensation for personal injuries to or the death of one (1) of the employer's employees from an occupational disease; and

(2) employer carrying the employer's own risk for personal injuries to or the death of one (1) of the employer's employees from an occupational disease;

that does not comply with this section is subject to a fine of two hundred fifty dollars ($250) that shall be paid into the occupational diseases second injury fund created under subsection (f).

(k) In addition to assessing the fine provided under subsection (j), the board shall refer an insurance carrier that does not comply with this section to the department of insurance for administrative action for committing an unfair or deceptive act and practice under IC 27-4-1.

SECTION 32. IC 22-3-7-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. (a) If an employee:**

(1) suffers an occupational disease that results in a temporary total disability or a temporary partial disability;

(2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's occupational disease; and

(3) is enrolled in a training program approved by:

(A) the incumbent workers training board established by IC 22-4-18.3-2; or

(B) the Indiana unemployment insurance board created by IC 22-4-18-2;

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

(1) fifty-two (52) consecutive weeks; or

(2) seventy-eight (78) total weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the difference between the employee's average weekly wage from employment at the time of the injury and the employee's average weekly wage from employment after the injury with the permanent restrictions or limitations resulting from the injury.

(d) The amount of disabled from trade compensation may not exceed the maximum average weekly wage amounts set forth in section 19 of this chapter.

(e) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

(1) an explanation of the limitations or restrictions placed on the employee;

(2) the amount of disabled from trade compensation the employee has been awarded; and

(3) information for the employee regarding the terms of this section.

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 33. IC 22-3-7-17, AS AMENDED BY P.L.31-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and ~~his~~ **the employee's** right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(c) **After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:**

(1) the employee makes the transfer request;

(2) the attending physician requests that the physician's treatment of the employee be discontinued; or

(3) the worker's compensation board determines that there is good cause for the transfer.

(d) If the employer or the employer's insurance carrier desires to transfer or redirect the employee's medical treatment for good cause, the employer or the employer's insurance carrier shall file a transfer request with the worker's compensation board on forms prescribed by the board. A transfer may not occur until the worker's compensation board issues an order granting the transfer request.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all of the following provisions:

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the **occupational diseases** second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(d)~~ **(g)** If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within the period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(h)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or

(2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(i)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 34. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars ($135); and

(B) not less than seventy-five dollars ($75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars ($156); and

(B) not less than seventy-five dollars ($75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars ($180); and

(B) not less than seventy-five dollars ($75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars ($195); and

(B) not less than seventy-five dollars ($75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars ($210); and

(B) not less than seventy-five dollars ($75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars ($234); and

(B) not less than seventy-five dollars ($75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars ($249); and

(B) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:
(A) not more than six hundred seventy-two dollars ($672); and
(B) not less than seventy-five dollars ($75);
(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:
(A) not more than seven hundred two dollars ($702); and
(B) not less than seventy-five dollars ($75);
(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:
(A) not more than seven hundred thirty-two dollars ($732); and
(B) not less than seventy-five dollars ($75);
(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:
(A) not more than seven hundred sixty-two dollars ($762); and
(B) not less than seventy-five dollars ($75);
(5) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2001, and before July 1, 2002:
(A) not more than eight hundred twenty-two dollars ($822); and
(B) not less than seventy-five dollars ($75); ~~and~~
(6) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2002, **and before July 1, 2003:**
(A) not more than eight hundred eighty-two dollars ($882); and
(B) not less than seventy-five dollars ($75);
(7) with respect to occupational diseases occurring on and after July 1, 2003, and before July 1, 2004:
(A) not more than nine hundred forty-eight dollars ($948); and
(B) not less than two hundred six dollars ($206); and
(8) with respect to occupational diseases occurring on and after July 1, 2004:
(A) not more than one thousand fourteen dollars ($1,014); and
(B) not less than two hundred six dollars ($206).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:
(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars ($45,000) in any case;
(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars ($52,000) in any case;
(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars ($60,000) in any case;
(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars ($65,000) in any case;
(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars ($70,000) in any case;
(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars ($78,000) in any case; and
(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars ($83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter, **subject to section 21 of this chapter,** may not exceed the following amounts in any case:
(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).
(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).
(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).
(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).
(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).
(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2003,** two hundred ninety-four thousand dollars ($294,000).
(7) With respect to a disability or death occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation plus one hundred (100) degrees of permanent partial impairment, both as set forth in section 16 of this chapter.

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the

remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) **In computing the average weekly wage for an employee who:**

(1) has sustained a compensable occupational disease;

(2) has returned to work; and

(3) sustains a later period of disability due to that occupational disease after June 30, 2003;

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in this section.

(x) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

(y) Each payment of compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 35. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate as is then currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for the loss of wages upon the basis of such employee's average daily wage.

(c) When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel, payable under this section, shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the disabled or injured employee has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's

compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(f) **A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all of the following provisions:**

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(g) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

~~(g)~~ **(h)** Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

~~(h)~~ **(i)** Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(f).~~ **(g).**

~~(i)~~ **(j)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

SECTION 36. IC 22-3-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under ~~chapters 2 through 6 of this article.~~ **IC 22-3-2 through IC 22-3-6.**

(b) ~~No~~ **Each payment of** compensation ~~is~~ allowed **under sections 16 and 19 of this chapter shall be reduced by twenty percent (20%)** for ~~any~~ **occupational** disease or death ~~knowingly self-inflicted by the employee or~~ due to:

~~his~~ **(1)** intoxication;

~~his~~ **(2)** commission of an offense;

~~his~~ **(3)** knowing **and willful** failure to use a safety appliance;

~~his~~ **(4)** knowing **and willful** failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or

~~his~~ **(5)** knowing **and willful** failure to perform any statutory duty.

~~The burden of proof is on the defendant.~~

(c) No compensation is allowed for an employee's knowing and willful self-inflicted occupational disease or death.

(d) Each payment of compensation allowed under sections 16 and 19 of this chapter shall be increased by thirty percent (30%) for a disease or death due to the employer's intentional failure to comply with a statute or an administrative regulation regarding safety methods or installation or maintenance of safety appliances.

(e) The defendant has the burden of proof under subsections (b) and (c).

SECTION 37. IC 22-3-7-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The worker's compensation board may make rules not inconsistent with this chapter for carrying out the provisions of this chapter. Processes and procedures under this chapter shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power, for the purpose of this chapter, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The county sheriff shall serve all subpoenas of the board **and magistrates appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts. The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(b) The fees of attorneys and physicians and charges of nurses and hospitals for services under this chapter shall be subject to the approval of the worker's compensation board. When any claimant for compensation is represented by an attorney in the prosecution of ~~his~~ **the claimant's** claim, the board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and ~~his~~ **the claimant's** attorney, and the employer shall pay to the attorney, out of the award, the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall

determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars ($150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until ~~he shall file~~ **the attending physician files** a report with the board on the form prescribed by such board.

SECTION 38. IC 22-3-7-27, AS AMENDED BY P.L.235-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members **or by magistrates appointed under IC 22-3-1-1** shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the industrial board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of ten percent (10%) per year, accruing from the date of filing of the application for adjustment of claim as determined under subsection (a).**

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not **have jurisdiction to** make any ~~such~~ modification upon its own motion ~~nor shall~~ **or upon** any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing. ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 39. IC 22-3-7-34.5, AS AMENDED BY P.L.202-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34.5. (a) As used in this section, "independent contractor" refers to a person described in section 9(b)(5) of this chapter.

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not subject to the compensation provisions of this chapter and must file a statement with the department of state revenue and obtain a certificate of exemption.

(d) An independent contractor shall file with the department of state revenue, in the form prescribed by the department of state revenue, a statement containing the information required by IC 6-3-7-5.

(e) Together with the statement required in subsection (d), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(f) An independent contractor shall pay a filing fee in the amount of fifteen dollars ($15) with the certificate filed under subsection (h). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund. ~~and~~ **Thirty-four percent (34%) of the money in the fund** shall be ~~used~~ **allocated** for all expenses the board incurs **in administering this section. Sixty-six percent (66%) of the money in the fund shall be allocated for the enforcement of section 34.6 of this chapter, including the costs of hiring additional staff required by the department of labor.**

(g) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(h) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing information required in subsections (e) and (g).

(i) A person who contracts for services of another person not covered by this chapter to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(j) A stamped certificate filed under this section is binding on and holds harmless for all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under this chapter for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

SECTION 40. IC 22-3-7-34.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 34.6. (a) As used in this section, "person" has the meaning set forth in section 34.5 of this chapter.**

(b) A person who does any of the following is subject to a civil penalty under this section:

(1) Fails to obtain a copy of another person's stamped certificate of exemption as required under section 34.5(i) of this chapter before that person performs work on the person's behalf as an independent contractor.

(2) Fails to keep a copy of another person's stamped certificate of exemption on file as long as that person is performing work on the person's behalf as an independent contractor.

(c) If the department of labor determines that a person has violated subsection (b)(1) or (b)(2), the department of labor may assess a civil penalty of not more than one thousand dollars ($1,000) for each violation, plus any investigative costs incurred and documented by the department of labor. If the department of labor determines that a civil penalty is warranted, the department of labor shall consider the following factors in determining the amount of the penalty:

(1) Whether the person performing work as an independent contractor meets the definition of an independent contractor under section 9(b)(5) of this chapter.

(2) Whether the violation was an isolated event or part of a pattern of violations.

(d) All civil penalties collected under this section shall be deposited in the occupational disease second injury fund created under section 16.1 of this chapter.

(e) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-2-6; and

(2) becomes effective without a proceeding under IC 4-21.5 -3, unless a person requests an administrative review not later than thirty (30) days after the notice of assessment is given.

(f) The department of labor shall provide copies of its determinations under this section to the worker's compensation board and the department of state revenue.

SECTION 41. IC 22-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a) Except as provided in subsections (b) and (c),** "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit period. ~~Provided,~~ However, ~~That~~ for a claim computed in accordance with IC ~~1971,~~ 22-4-22, the base period shall be the base period as outlined in the paying state's law.

(b) Effective January 1, 2005, "base period"also includes, in the case of an individual who does not have sufficient wages in

the base period as set forth in subsection (a), the last four (4) completed calendar quarters immediately preceding the first day of the benefit year of the individual if the period qualifies the individual for benefits under this chapter. Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for a subsequent benefit year.

(c) In the case of a combined wage claim under an arrangement approved by the United States Secretary of Labor, the base period is the period applicable under the unemployment compensation law of the paying state.

(d) The department shall adopt rules under IC 4-22-2 to obtain wage information if wage information for the most recent quarter of the base period as set forth under subsection (b) is not available to the department from regular quarterly reports of wage information that is systemically accessible.

SECTION 42. IC 22-4-2-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. **(a)** Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

(b) The provisions of section 12(b), 12(c), and 12(d) of this chapter apply beginning January 1, 2005.

SECTION 43. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed. ~~Provided,~~ No individual in a benefit period may file a valid claim for a waiting period, **if applicable,** or benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 44. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit, **if applicable,** or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 45. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or ~~his~~ **the employer's** predecessor with respect to employment during any calendar year ~~subsequent to~~ **beginning after** December 31, 1982, **and before January 1, 2004; and**

(B) nine thousand dollars ($9,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year beginning after December 31, 2003;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to his beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which he attains the age of sixty-five (65) if he did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 46. IC 22-4-4-3, AS AMENDED BY P.L.30-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars ($3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars ($3,926) and may not include payments specified in section 2(b) of this chapter.

(c) For calendar quarters beginning on and after April 1, 1985, and before January 1, 1991, "wage credits" means remuneration paid for

employment by an employer to an individual. Wage credits may not exceed four thousand one hundred eighty-six dollars ($4,186) and may not include payments specified in section 2(b) of this chapter.

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars ($4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars ($5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars ($5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars ($5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars ($5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars ($6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars ($7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, **and before July 1, 2003,** "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars ($7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand four hundred thirty-three dollars ($8,433) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(m) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand nine hundred sixty-six dollars ($8,966) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(n) For calendar quarters beginning on and after July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand five hundred dollars ($9,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 47. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) After making the deposit required by subsection (b),** the department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

(b) After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars ($450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described in IC 22-4-25-1(f).

SECTION 48. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2005.** As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which ~~he~~ **the individual** has received no benefits, but during which ~~he~~ **the individual** was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. ~~No~~ **An** individual in a benefit period may **not** file for waiting period or benefit period rights with respect to any subsequent period. ~~Provided,~~ However, ~~That~~ no waiting period shall be required as a prerequisite for drawing extended benefits.

(b) This subsection applies after December 31, 2004. An individual in a benefit period may not file for benefit period rights for any subsequent period.

SECTION 49. IC 22-4-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **Except for benefits due under IC 22-4-15-3.5,** for weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

(b) An employer shall file an application for a seasonal determination (as defined by IC 22-4-7-3) with the department of workforce development. A seasonal determination shall be made by the department within ninety (90) days after the filing of such an application. Until a seasonal determination by the department has been made in accordance with this section, no employer or worker may be considered seasonal.

(c) Any interested party may file an appeal regarding a seasonal determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.

(d) Whenever an employer is determined to be a seasonal employer, the following provisions apply:

(1) The seasonal determination becomes effective the first day of the calendar quarter commencing after the date of the

seasonal determination.

(2) The seasonal determination does not affect any benefit rights of seasonal workers with respect to employment before the effective date of the seasonal determination.

(e) If a seasonal employer, after the date of its seasonal determination, operates its business or its seasonal operation during a period or periods of twenty-six (26) weeks or more in a calendar year, the employer shall be determined by the department to have lost its seasonal status with respect to that business or operation effective at the end of the then current calendar quarter. The redetermination shall be reported in writing to the employer. Any interested party may file an appeal within fifteen (15) calendar days after the redetermination by the department and obtain review of the redetermination in accordance with IC 22-4-32.

(f) Seasonal employers shall keep account of wages paid to seasonal workers within the seasonal period as determined by the department and shall report these wages on a special seasonal quarterly report form provided by the department.

(g) The board shall adopt rules applicable to seasonal employers for determining their normal seasonal period or periods.

SECTION 50. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period, **if applicable,** or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual who is an affected employee (as defined in IC 22-4-43-1(1)) and is subject to the work sharing unemployment insurance program under IC 22-4-43 is not disqualified from participating in the work sharing unemployment insurance program.

(9) The following provisions apply to an individual employed by a temporary employment agency (as defined in IC 22-5-6-7):

(A) An individual who last was employed by a temporary employment agency is not considered to have quit employment voluntarily without good cause if the individual did not contact the temporary employment agency for reassignment upon completion of the assignment.

(B) When an individual who last was employed by a temporary employment agency:

(i) completes an assignment with a third party;

(ii) has indicated availability to accept a new assignment with a third party; and

(iii) is not offered a new assignment that is within the labor market and that has substantially equivalent compensation, benefits, and working conditions;

the individual is eligible for benefits, subject to the waiting period as set forth in IC 22-4-14-4.

(C) The failure of the individual to contact the temporary employment agency is not considered a disqualification if the temporary employment firm has violated any provision of state or federal law protecting employees of temporary employment with respect to the individual.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In

determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 51. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period, **if applicable,** or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 52. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Except as provided in section 3.5 of this chapter,** an individual shall be ineligible for waiting period, **if applicable,** or benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if:

(1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's**

employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; ~~or~~ ~~if~~

(2) the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or ~~if~~

(3) all of the following conditions exist: ~~He~~

(A) The individual is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~

(B) The individual does not belong to a grade or class of workers of which, immediately before the commencement of ~~his~~ **the individual's** unemployment, there were members employed at the same premises as ~~he,~~ **the individual,** any of whom are participating in or financing or directly interested in the dispute. ~~and he~~

(C) The individual has not voluntarily stopped working, other than at the direction of ~~his~~ **the individual's** employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment, or other premises.

(d) Upon request of any claimant or employer involved in an issue arising under this section, the deputy shall, and in any other case the deputy may, refer claims of individuals with respect to whom there is an issue of the application of this section to an administrative law judge who shall make the initial determination with respect thereto, in accordance with the procedure in IC 22-4-17-3.

(e) Notwithstanding any other provisions of this article, an individual shall not be ineligible for waiting period, **if applicable,** or benefit rights under this section solely by reason of ~~his~~ **the individual's** failure or refusal to apply for or to accept recall to work or reemployment with an employer during the continuance of a labor dispute at the factory, establishment, or other premises of the employer, if the individual's last separation from the employer occurred prior to the start of the labor dispute and was permanent or for an indefinite period.

SECTION 53. IC 22-4-15-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) As used in this section, "shuts down operations" means the termination of business by the employer, whether due to:**

(1) a filing of a petition under 11 U.S.C. 501, 11 U.S.C. 1201, or 11 U.S.C. 1301; or

(2) cessation of business by the employer, whether or not dissolution procedures under IC 23-1 have been filed.

(b) If the total or partial or part-total unemployment of an individual due to a labor dispute at the factory, establishment, or other premises at which the individual was last employed ends because the employer shuts down business and the individual continues to be totally, partially, or part-totally unemployed, the individual is eligible for waiting period, if applicable, or benefit rights retroactive to the date of the individual's unemployment due to the labor dispute.

(c) Any benefits provided by a labor union or other associated fund to the individual during the period of the labor dispute, other than those provided under IC 22-4-5-1(a)(10), may not be considered remuneration for purposes of computing deductible income.

(d) Any retroactive benefits due to an individual under this section shall be limited to the maximum benefit periods provided in IC 22-4-12-4.

(e) Notwithstanding IC 22-4-14-11, benefits may be paid on the basis of service performed in seasonal employment to an individual who may be due retroactive benefits under this section who:

(1) has engaged in seasonal employment; and

(2) has filed a claim for benefits outside the operating period of seasonal employment.

(f) IC 22-4-14-3 applies only after the date the employer shuts down business.

(g) The department may use the procedures prescribed by IC 22-4-17-1 for the taking of claims in the instance of mass layoffs for claims made under this section.

SECTION 54. IC 22-4-15-4, AS AMENDED BY P.L.290-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An individual ~~shall be~~ **is** ineligible for waiting period, **if applicable,** or benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

(1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or

(2) any pension, retirement, or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. This disqualification shall apply only if some or all of the benefits otherwise payable are chargeable to the experience or reimbursable account of ~~such~~ **the** employer, or would have been chargeable except for the application of this chapter. For ~~the~~ purposes of this subdivision, ~~(2),~~ federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.

(b) If the payments described in subsection (a) are less than ~~his~~ **the individual's** weekly benefit amount, an otherwise eligible individual ~~shall~~ **is** not ~~be~~ ineligible and shall be entitled to receive for ~~such~~ **the** week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 55. IC 22-4-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except as provided in IC ~~1971,~~ 22-4-22, an individual ~~shall be~~ **is** ineligible for waiting period, **if applicable,** or benefit rights for any week with respect to which or a part of which ~~he~~ **the individual** receives, is receiving, has received, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. ~~Provided, that~~ **However,** this disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he~~ **the individual** is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

SECTION 56. IC 22-4-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any other provisions of this article, if an individual knowingly fails to disclose amounts earned during any week in ~~his~~ **the individual's** waiting period, **if applicable,** benefit period, or extended benefit period with respect to which benefit rights or extended benefit rights are claimed, or knowingly fails to disclose or has falsified as to any fact ~~which~~ **that** would have disqualified ~~him~~ **the individual** or rendered ~~him~~ **the individual** ineligible for benefits or extended benefits or would have reduced ~~his~~ **the individual's** benefit rights or extended benefit rights during such a week, all of ~~his~~ **the individual's** wage credits established prior to the week of the falsification or failure to disclose shall be cancelled, and any benefits or extended benefits ~~which~~ **that** might otherwise have become payable to ~~him~~ **the individual** and any benefit rights or extended benefit rights based upon those wage credits shall be forfeited.

SECTION 57. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status

shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits, **if applicable,** or benefits, shall notify the department of such facts within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit, **if applicable,** or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit, **if applicable,** or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~twenty (20)~~ **ten (10)** days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ **A** person may **not** participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

SECTION 58. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established to do the following:

(1) Administer the costs of the skills 2016 training program established by IC 22-4-10.5.

(2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.

(3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) ~~Subject to subsection (j), fifty-five~~ **Ninety-five** percent ~~(55%)~~ **(95%)** of the money in the fund shall be allocated to the state educational institution established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:

(1) An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection ~~(b).~~ **(a).** However, the amount so allocated may not exceed ~~fifteen~~ **twelve and one-half** percent ~~(15%)~~ **(12.5%)** of the total amount of money allocated under this subsection.

(2) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(3) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(4) After the allocation made under subdivision (1), twenty percent (20%) shall be used to provide training to industrial employees not covered by subdivision (2).

(c) ~~Subject to subsection (j),~~ The remainder of the money in the fund shall be allocated as follows:

(1) An amount not to exceed one million dollars ($1,000,000) shall be allocated to the department of workforce development annually for technology needs of the department.

~~(2) An amount not to exceed four hundred fifty thousand dollars ($450,000) shall be allocated annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(A) have been unemployed for at least four (4) weeks;~~

~~(B) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(C) are not participating in programs that duplicate those programs described in IC 22-4-25-1(c).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.~~

~~(3)~~ **(2)** An amount to be determined annually shall be set aside for the payment of refunds from the fund.

~~(4)~~ **(3)** The remainder of the money in the fund after the allocations provided for in subsection (b) and subdivisions (1) through ~~(3)~~ **(2)** shall be allocated to other incumbent worker training programs.

(d) The fund shall be administered by the board. However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected.

(h) All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

(i) Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.

~~(j) If the fund ratio (as described in IC 22-4-11-3) is less than or equal to 1.5 or if the board determines that the solvency of the unemployment insurance benefit fund established by IC 22-4-26-1 is threatened, the funds assessed for or deposited in the skills 2016 training fund shall be directed or transferred to the unemployment insurance benefit fund.~~

SECTION 59. IC 22-4-25-1, AS AMENDED BY P.L.290-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund **and amounts deposited as required by IC 22-4-10.5-7(b),** shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars ($5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars ($450,000) annually for training and counseling assistance under IC 22-4-14-2 provided

by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

(1) have been unemployed for at least four (4) weeks;

(2) are not otherwise eligible for training and counseling assistance under any other program; and

(3) are not participating in programs that duplicate those programs described in subsection (e).

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.".

Page 3, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 61. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 43. Work Sharing

Sec. 1. The following definitions apply throughout this chapter:

(1) "Affected employee" means an individual who has been continuously on the payroll of an affected unit for at least three (3) months before the employing unit submits a work sharing plan.

(2) "Affected unit" means a specific plant, department, shift, or other definable unit of an employing unit:

(A) that has at least two (2) employees; and

(B) to which an approved work sharing plan applies.

(3) "Approved work sharing plan" means a plan that satisfies the purpose set forth in section 2 of this chapter and has the approval of the commissioner.

(4) "Commissioner" means the commissioner of workforce development appointed under IC 22-4.1-3-1.

(5) "Normal weekly work hours" means the lesser of:

(A) the number of hours that an employee in the affected unit works when the unit is operating on its normal full-time basis; or

(B) forty (40) hours.

(6) "Work sharing benefit" means a benefit payable to an affected employee for work performed under an approved work sharing plan, but does not include benefits that are otherwise payable under this article.

(7) "Work sharing employer" means an employing unit for which a work sharing plan has been approved.

(8) "Work sharing plan" means a plan of an employing unit under which:

(A) normal weekly work hours of affected employees are reduced; and

(B) affected employees share the work that remains after the reduction.

Sec. 2. The work sharing unemployment insurance program seeks to:

(1) preserve the jobs of employees and the workforce of an employer during lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and

(2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

Sec. 3. An employing unit that wishes to participate in the work sharing unemployment insurance program shall submit to the commissioner a written work sharing plan.

Sec. 4. (a) Within fifteen (15) days after receipt of a work sharing plan, the commissioner shall give written approval or disapproval of the plan to the employing unit.

(b) The decision of the commissioner to disapprove a work sharing plan is final and may not be appealed.

(c) An employing unit may submit a new work sharing plan not less than fifteen (15) days after disapproval of a work sharing plan.

Sec. 5. The commissioner shall approve a work sharing plan that meets the following requirements:

(1) The work sharing plan must apply to:

(A) at least ten percent (10%) of the employees in an affected unit; or

(B) at least twenty (20) employees in an affected unit.

(2) The normal weekly work hours of affected employees in the affected unit shall be reduced by at least ten percent (10%), but the reduction may not exceed fifty percent (50%) unless waived by the commissioner.

Sec. 6. A work sharing plan must:

(1) identify the affected unit;

(2) identify each employee in the affected unit by:

(A) name;

(B) Social Security number; and

(C) any other information the commissioner requires;

(3) specify an expiration date that is not more than six (6) months after the effective date of the work sharing plan;

(4) specify the effect that the work sharing plan will have on the fringe benefits of each employee in the affected unit, including:

(A) health insurance for hospital, medical, dental, and similar services;

(B) retirement benefits under benefit pension plans as defined in the federal Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.);

(C) holiday and vacation pay;

(D) sick leave; and

(E) similar advantages;

(5) certify that:

(A) each affected employee has been continuously on the payroll of the employing unit for three (3) months immediately before the date on which the employing unit submits the work sharing plan; and

(B) the total reduction in normal weekly work hours is in place of layoffs that would have:

(i) affected at least the number of employees specified in section 5(1) of this chapter; and

(ii) resulted in an equivalent reduction in work hours; and

(6) contain the written approval of the collective bargaining agent for each collective bargaining agreement that covers any affected employee in the affected unit.

Sec. 7. If a work sharing plan serves the work sharing employer as a transitional step to permanent staff reduction, the work sharing plan must contain a reemployment assistance plan for each affected employee that the work sharing employer develops with the commissioner.

Sec. 8. The work sharing employer shall agree to:

(1) submit reports that are necessary to administer the work sharing plan; and

(2) allow the department to have access to all records necessary to:

(A) verify the work sharing plan before its approval; and

(B) monitor and evaluate the application of the work sharing plan after its approval.

Sec. 9. (a) An approved work sharing plan may be modified if the modification meets the requirements for approval under section 6 of this chapter and the commissioner approves the modifications.

(b) An employing unit may add an employee to a work sharing plan when the employee has been continuously on the payroll for three (3) months.

(c) An approved modification of a work sharing plan may not change its expiration date.

Sec. 10. (a) An affected employee is eligible under this chapter to receive work sharing benefits for each week in which the

commissioner determines that the affected employee is:

(1) able to work; and

(2) available for more hours of work or full-time work for the worksharing employer.

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

(1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and

(2) not subject to the requirements of IC 22-4-14-2.

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FIVE of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Subtract the number of the employee's work hours under the approved work sharing plan from the number of the employee's normal work hours.

STEP THREE: Divide the STEP TWO result by the number of the employee's normal work hours.

STEP FOUR: Multiply the number determined in STEP ONE by the quotient determined in STEP THREE.

STEP FIVE: If the product determined under STEP FOUR is not a multiple of one dollar ($1), round down to the nearest lower multiple of one dollar ($1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty-six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

(1) the individual shall be paid unemployment insurance benefits in accordance with IC 22-4-12; and

(2) the week does not count as a week for which a work sharing benefit is received.

Sec. 14. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

(1) exceed the wages earned under the approved work sharing plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wages from the work sharing employer or another employer.

Sec. 15. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits under IC 22-4-12-4; or

(2) supplemental federal unemployment compensation.

Sec. 16. Work sharing benefits shall be charged to the work sharing employer's experience balance in the same manner as unemployment insurance is charged under this article. Employers liable for payments instead of contributions shall have work sharing benefits attributed to service in their employ in the same manner as unemployment insurance is attributed under this article.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work sharing plan;

(3) unreasonable revision of a productivity standard of the affected unit; and

(4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

Sec. 18. This chapter expires January 1, 2006.

SECTION 62. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 44. Expanded Unemployment Insurance Benefits While in State Training

Sec. 1. It is the intent of the general assembly that:

(1) a training benefits program be established to provide unemployment insurance benefits to unemployed individuals who participate in training programs necessary for their reemployment;

(2) funding for the program be limited by a specified maximum amount each fiscal year;

(3) individuals unemployed as a result of structural changes in the economy and technological advances rendering their skills obsolete must receive the highest priority for participation in the program;

(4) individuals for whom suitable employment is available are not eligible for additional benefits while participating in training; and

(5) the program must serve the following goals:

(A) Retraining should be available for those unemployed individuals whose skills are no longer in demand.

(B) To be eligible for retraining, an individual must have a long term attachment to the labor force.

(C) Training must enhance the individual's marketable skills and earning power.

(D) Retraining must be targeted to those industries or skills that are in high demand within the labor market.

Sec. 2. The following definitions apply throughout this chapter:

(1) "High demand" means demand for employment that exceeds the supply of qualified workers for occupations or skill sets in a labor market area.

(2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1 and includes an equivalent educational institution in another state that also receives appropriations from the general assembly of the other state.

(3) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base period and at least two (2) of the four (4) twelve (12) month periods immediately preceding the base period.

(4) "Training benefits" means additional benefits paid under this chapter.

(5) "Training program" means:

(A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or

(B) a vocational training program at a state educational institution that:

(i) is targeted to training for a high demand occupation. The assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2);

(ii) is likely to enhance the individual's marketable skills and earning power; and

(iii) meets the criteria for performance developed by the department of workforce development for the purpose of determining those training programs

eligible for funding under 29 U.S.C. 2911 et seq.

The term does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

Sec. 3. Subject to availability of funds, training benefits are available for an individual who meets all the following conditions:

(1) The individual is eligible for or has exhausted entitlement to unemployment compensation benefits.

(2) The individual is a dislocated worker who:

(A) has been terminated or received a notice of termination from employment;

(B) is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(C) is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for the individual's skills in that occupation or industry.

(3) Except as provided under subdivision (4), the individual has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process.

(4) The individual is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the department of workforce development.

(5) The individual develops an individual training program that is submitted to the commissioner for approval within sixty (60) days after the individual is notified by the department of the requirements of this section.

(6) The individual enters the approved training program within ninety (90) days after the date of the notification, unless the department determines that the training is not available during the ninety (90) day period, in which case the individual enters training as soon as it is available.

(7) The individual is enrolled in training approved under this chapter on a full-time basis as determined by the state educational institution and is making satisfactory progress in the training as certified by the state educational institution.

Sec. 4. An individual is not eligible for training benefits under this chapter if the individual:

(1) is a standby claimant who expects recall to the individual's regular employer;

(2) has a definite recall date that is within six (6) months after the date the individual has been laid off; or

(3) is unemployed due to regular seasonal employment as defined in IC 22-4-8-4(a).

Sec. 5. Benefits shall be paid as follows:

(1) The total training benefit amount shall be fifty-two (52) times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or considered paid with respect to the benefit year.

(2) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.

(3) Training benefits are not payable for weeks more than two (2) years beyond the end of the benefit year of the regular claim.

Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees and regular benefits do not apply to an individual otherwise eligible for training benefits under this chapter when the individual's benefit year ends before the training benefits are exhausted and the individual is eligible for a new benefit year. The individual will have the option of remaining on the original claim or filing a new claim.

Sec. 7. An individual who receives training benefits under this chapter or under any previous additional benefits program for training is not eligible for training benefits under this chapter for five (5) years after the last receipt of training benefits under this chapter or under any previous additional benefits program for training.

Sec. 8. All base period employers are interested parties to the approval of training and the granting of training benefits.

Sec. 9. The department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2) must identify occupations and skill sets that are declining and occupations and skill sets that are in high demand. The department of workforce development shall update this information annually or more frequently if needed.

Sec. 10. The department may pay training benefits under section 3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 63. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Protection for Temporary Employees in the Construction Trades

Sec. 1. As used in this chapter, "benefits" means compensation provided in addition to wages, including any of the following:

(1) Accrual of seniority.

(2) Credit for length of service.

(3) Disability and health insurance.

(4) Holiday pay or time off.

(5) Pension entitlement accrual.

(6) Sick leave.

(7) Vacation leave or pay.

Sec. 2. As used in this chapter, "client company" means a business that leases the services of employees or receives services or functions through temporary employment agencies.

Sec. 3. As used in this chapter, "construction trades" means any trade or occupation involving construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, or excavation.

Sec. 4. As used in this chapter, "department" refers to the department of labor.

Sec. 5. As used in this chapter, "liquidity fee" means a penalty charged by a temporary employment agency against:

(1) a temporary employee for accepting a position of employment with the client company; or

(2) a client company for hiring a temporary employee.

Sec. 6. As used in this chapter, "substantially equivalent work" means work on jobs:

(1) the performance of which requires equal skill, effort, and responsibility; and

(2) under similar working conditions.

Sec. 7. As used in this chapter, "temporary employee" means a temporary employment agency employee who, in the course of employment, performs personal services in the construction trades on a temporary basis to a third party client company under the direction and control of the third party client company. The term does not include a person who is an independent contractor in the construction trades under IC 22-3-6-1(b)(7).

Sec. 8. As used in this chapter, "temporary employment agency" means an employer that for a fee:

(1) recruits;

(2) procures;
(3) refers;
(4) places; or
(5) employs;

workers to perform personal services on a temporary basis to a third party client company under the direction and control of the third party client company.

Sec. 9. A temporary employment agency shall post in its labor hall where temporary employees are required to appear for assignment to work or, if there is no such labor hall, provide to each temporary employee seeking employment a list of all client companies at which work is available through the temporary employment agency. The list must include the following for each job opportunity posted:

(1) The name and address of the client company and the exact address of the worksite, directions to the worksite, and a telephone number at which a temporary employee could be reached in an emergency situation.

(2) The type of job opportunity for temporary employees.

(3) A detailed description of the work to be performed by the temporary employee, including any requirements for special attire, accessories, tools, or safety equipment.

(4) The method of computing compensation and the amount of compensation and benefits to be paid for the work, and the overtime rate of compensation if it might be available.

(5) Any cost of the transportation to the temporary employee.

(6) The duration of the work to be performed by the temporary employee, including:

(A) the time of day the work will begin;
(B) the time of day the work will end;
(C) the schedule of days on which the work will be performed;
(D) when the work is expected to end; and
(E) whether there is any possibility of overtime work or extension of the work past the anticipated end date.

(7) Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. The information must include, but is not limited to, a complete and accurate description of worksite hazards to which the temporary employee may become exposed, including any hazardous materials that the temporary employee may be required to use or handle and any physical conditions or work practices that do not comply with applicable occupational health and safety standards.

(8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

(1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;

(2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of at least ninety (90) days, whether or not continuously, and who perform substantially equivalent work compared to employees of the client company where the temporary employees work;

(3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage, which shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or state law;

(4) include a written notification with each payment of wages to the temporary employee, which shall be included on the temporary employee's statement of earnings and deductions, specifying:

(A) the hourly rate paid for the temporary employee;
(B) the itemized deductions made from the wage payment made to the temporary employee by the temporary employment agency; and
(C) an itemized list of benefits provided to the temporary employee by the temporary employment agency; and

(5) provide each temporary employee with an annual earnings summary not later than February 1 for the preceding calendar year.

Sec. 11. A temporary employment agency shall not charge a temporary employee:

(1) for safety equipment, clothing, tools, accessories, or any other items required by the nature of the work, either by law, custom, or a requirement of the client company. This subdivision does not preclude the temporary employment agency from charging the temporary employee the market value of items temporarily provided to the temporary employee by the temporary employment agency if the temporary employee willfully fails to return the items to the temporary employment agency; however, a charge may not be made for items damaged through ordinary use or lost through no fault of the temporary employee;

(2) for merchandise or supplies other than those referenced in subdivision (1) that the temporary employment agency makes available for purchase at a higher price than merchandise or supplies sold to others, as provided in IC 22-2-4-3;

(3) to transport the temporary employee to or from a worksite;

(4) for directly or indirectly cashing a temporary employee's paycheck; or

(5) if a meal is provided at the worksite by the temporary employment agency, more than the actual cost of providing the meal, but the purchase of a meal may not be a condition of employment.

Sec. 12. (a) A temporary employment agency that operates a labor hall where temporary workers are required to appear for:

(1) assignment to work; or
(2) payment of compensation;

shall provide facilities for temporary employees waiting at the labor hall for a job assignment that includes restroom facilities, drinking water, and sufficient seating.

(b) A temporary employment agency shall insure at the minimum rate required by the law of the state in which the motor vehicle is registered any motor vehicle owned or operated by the temporary employment agency and used for the transportation of temporary employees.

(c) All advertisements of a temporary employment agency must contain the correct name of the temporary employment agency and one (1) of the following:

(1) The street address of the place of business of the temporary employment agency.

(2) The correct telephone number of the temporary employment agency at its place of business.

Sec. 13. (a) A temporary employment agency shall not restrict the right of:

(1) a temporary employee to accept a permanent position with a client company to whom the temporary employee is referred for temporary employment; or

(2) the client company to offer employment to a temporary employee of the temporary employment agency.

However, this chapter does not restrict the temporary employment agency from receiving a reasonable liquidity fee from the client company.

(b) A temporary employment agency shall not make or give, or cause to be made or given any false, leading, or deceptive advertisements, information, or representation concerning the services, compensation, benefits, or work opportunities that the client company will provide to the temporary employees.

Sec. 14. The worker's compensation insurance premiums of a temporary employment agency shall be determined and paid based on the experience rating of the client company for which the temporary employee performs services if the client company has sufficient worker's compensation premium volume to be experience rated. Otherwise, the premiums shall be the rate

approved for an employer that cannot be experience rated.

Sec. 15. A temporary employment agency or client company shall not:

(1) discharge;

(2) discipline; or

(3) penalize in any other manner;

a temporary employee because the temporary employee, or a person acting on behalf of the temporary employee, reports a violation or alleged violation of section 9, 10, 11, 12, or 13 of this chapter to the temporary employment agency or to a local or state official, or because the temporary employee, or a person acting on behalf of the temporary employee, exercises any right under this chapter.

Sec. 16. A temporary employment agency that violates section 9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.

Sec. 17. (a) A temporary employee may bring a civil action against a temporary employment agency to enforce section 10 of this chapter and seek compensation for charges made in violation of section 11 of this chapter within two (2) years after the alleged violation.

(b) If a temporary employment agency violates section 10 of this chapter, the court may do the following:

(1) Award:

(A) treble damages for loss of wages and other benefits; and

(B) court costs and reasonable attorney's fees;

to the prevailing temporary employee.

(2) Enjoin further violations of this chapter by the temporary employment agency.

Sec. 18. (a) The department and its authorized inspectors and agents shall enforce this chapter. The department and its inspectors and agents may visit and inspect, at all reasonable hours and as often as practicable and necessary, all establishments governed by this chapter.

(b) When requested in writing by the department, the attorney general shall assist the department in enforcing this chapter against all violations.

(c) In addition to the civil action that may be brought by the temporary employee under section 17(a) of this chapter, a temporary employment agency that violates this chapter may be assessed a civil penalty by the department of not less than two thousand five hundred dollars ($2,500) and not more than five thousand dollars ($5,000) for each offense. The department shall collect the civil penalties and shall disburse the civil penalties as reimbursement of wages to the temporary employees who have been found by the department to have been damaged by the temporary employment agency's failure to comply with this chapter, with any remaining balance deposited in the state general fund.

(d) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.

SECTION 64. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class

involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an

individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 22-3-3-13 concerning second injury fund assessments.

(26) Violating IC 22-3-7-16.1 concerning occupational disease second injury fund assessments.

SECTION 65. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 5-16-7-6, as added by this act, the department of labor shall carry out the duties imposed upon it under IC 5-16-7, as amended by this act, under interim written guidelines approved by the commissioner of the department of labor.**

(b) This SECTION expires on the earlier of:

(1) the date rules are adopted under IC 5-16-7-6, as added by this act; or

(2) December 31, 2003.

SECTION 66. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 22-1-1-22, as added by this act, the department of labor shall carry out the duties imposed upon it under IC 22-1-1-22, as added by this act, under interim written guidelines approved by the commissioner of the department of labor.**

(b) This SECTION expires on the earlier of:

(1) the date rules are adopted under IC 22-1-1-22, as added by this act; or

(2) March 1, 2004.

SECTION 67. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the unemployment insurance board.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-43-13, as added by this act.

(2) December 31, 2004.

SECTION 68. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 22-4-44-11, as added by this act, the department of workforce development shall carry out the duties imposed upon it under IC 22-4-44-11, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the incumbent workers training board and the unemployment insurance board.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-44-11, as added by this act.

(2) December 31, 2004.

SECTION 69. [EFFECTIVE JULY 1, 2003] **(a) The department of workforce development shall adopt rules under IC 22-4-2-12, as amended by this act, before January 1, 2005.**

(b) This SECTION expires January 2, 2005.

SECTION 70. IC 22-4-10.5-1 IS REPEALED [EFFECTIVE JULY 1, 2003].".

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 6.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1085, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1131, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, line 3, after "Sec. 6." insert "**(a)**".

Page 2, line 4, delete "physician who" and insert "**practitioner (as defined in IC 25-1-9-2) who initially**".

Page 2, line 4, delete "resulted" and insert "**the practitioner has identified as resulting**".

Page 2, line 7, after "is" insert "**initially**".

Page 2, line 9, delete "resulted" and insert "**the administrator has identified as resulting**".

Page 2, line 11, delete "seventy-two (72) hours" and insert "**five (5) business days**".

Page 2, line 12, delete "writing." and insert "**writing on a form prescribed by the state department of health.**".

Page 2, after line 12, begin a new paragraph and insert:

"**(b) A report made under subsection (a) must include the following information:**

(1) The name, address, and age of the injured person.

(2) The date and time of the injury and the location where the injury occurred.

(3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.

(4) Whether the injured person consumed alcoholic beverages within three (3) hours before the injury occurred.

(5) A description of the firework that caused the injury.

(6) The nature and extent of the injury.

(7) Any other information requested by the state department of health.

(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).".

Renumber all SECTIONS consecutively.

(Reference is to HB 1131 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1135, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1139, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1144, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.1-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

(1) Determinations by the division of family and children, **except a determination under IC 12-17.2-7-2.**

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

(4) A final determination of the Indiana board of tax review.

(b) IC 4-21.5-5-12 and IC 4-21.5-5-14 do not apply to judicial review of a final determination of the Indiana board of tax review.

SECTION 2. IC 12-7-2-28.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.6. (a) "Child care home", for purposes of IC 12-17.2, means a residential structure in which at least six (6) children (not including ~~the~~ children ~~for whom~~ **who are related to** the provider) ~~is a parent, stepparent, guardian, custodian, or other relative~~) at any time receive child care from a provider:

(1) while unattended by a parent, legal guardian, or custodian;

(2) for regular compensation; and

(3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes:

(1) a class I child care home; and

(2) a class II child care home.

SECTION 3. IC 12-17.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.

(2) Ensure that a criminal history background check of the applicant is completed before issuing a license.

(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.

(4) Provide for the issuance, denial, suspension, and revocation of licenses.

(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.

(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees **and registration fees** collected under section 2 of this chapter in the child care fund.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

SECTION 4. IC 12-17.2-2-2, AS AMENDED BY P.L.215-2001, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child care center license, a fee of two dollars ($2) per licensed child capacity.

(B) For a child care center new inquiry application packet, a fee not to exceed five dollars ($5).

(C) For a child care home license new inquiry application packet, a fee not to exceed five dollars ($5).

(D) For a child care home annual inspection, a fee not to exceed twenty-five dollars ($25).

(8) **Charge a processing fee not to exceed five dollars ($5) for registration of a license exempt child care provider under IC 12-17.2-7.**

(9) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

SECTION 5. IC 12-7-2-123.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **"License exempt child care provider" means a person who:**

(1) is more than eighteen (18) years of age; and

(2) provides child care for at least one (1) child but less than six (6) children who are not related to the person:

(A) while each child is unattended by a parent, legal guardian, or custodian;

(B) for regular compensation; and

(C) for more than four (4) hours but less than twenty-four (24) hours per day in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

SECTION 6. IC 12-17.2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 7. Registration of License Exempt Child Care Providers

Sec. 1. A license exempt child care provider shall, on a form approved by the division, register with the division not more than thirty (30) days after the license exempt child care provider begins to provide child care.

Sec. 2. If the division, after a hearing conducted under

IC 4-21.5-3, determines that a license exempt child care provider has knowingly failed to register as required under this chapter, the division shall assess against the license exempt child care provider a civil penalty of one hundred dollars ($100).

Sec. 3. Penalties assessed under section 2 of this chapter shall be deposited in the child care fund established by IC 12-17.2-2-3.

Sec. 4. The division shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 7. [EFFECTIVE JULY 1, 2003] **Notwithstanding IC 12-17.2-7-1, as added by this act, a person who, on June 30, 2003, met the definition of license exempt child care provider set forth in IC 12-7-2-123.5, as added by this act, shall register with the division not later than January 1, 2004.**

(Reference is to HB 1144 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1213, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete line 29.

Page 3, line 34, delete "after" and insert "**before**".

Page 4, line 25, after "inquiry" insert "**:**

(I)".

Page 4, line 25, after "initiated" insert "**by the consumer;**".

Page 4, line 25, after "or" begin a new line triple block indented and insert:

"**(ii)**".

Page 4, line 27, delete "An" and insert "**A credit**".

Page 4, between lines 39 and 40, begin a new line block indented and insert:

"**(9) Take an adverse action based on credit information if the insured has:**

(A) continuously maintained a personal insurance policy issued by the insurer;

(B) had no claim loss on the personal insurance policy specified in clause (A); and

(C) had no moving traffic violations;

during the two (2) years immediately preceding the date on which the insurer intends to take the adverse action.".

Page 5, line 39, delete "15 U.S.C. 1681m(a)l;" and insert "**15 U.S.C. 1681m(a);**".

Page 5, line 42, delete "(a)" and insert "**(a)(2)**".

Page 6, line 3, delete "at least the" and insert "**all factors up to**".

Page 7, between lines 7 and 8, begin a new paragraph and insert:

"**Sec. 23. A violation of this chapter by an insurer is an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4.**

SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the policyholder's** insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ **the person's** insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or

made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ **the lender's** right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because

of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-2-21 concerning use of credit information.".

Page 7, line 10, after "to" insert"**:**

(1) a personal insurance policy application that is submitted; or

(2)".

Page 7, line 11, delete "renewed" and insert "**renewed;**".

Page 7, line 11, beginning with "after" begin a new line blocked left.

Page 7, line 11, delete "June 30, 2003." and insert "**December 31, 2003.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1213 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 5.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1257, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1269, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1282, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 14, after "physician" insert "**or optometrist**".

Page 1, line 15, after "physician's" insert "**or optometrist's**".

Page 1, line 16, after "physician's" insert "**or optometrist's**".

Page 2, line 27, after "physician's" insert "**or optometrist's**".

(Reference is to HB 1282 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1327, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, after "serving" insert "**on active duty, in the reserves, or in the national guard**".

Page 1, line 4, after "in the" insert "**United States**".

Page 1, line 4, delete "service of the".

Page 1, line 5, delete "United States".

Page 1, line 12, after "serving" insert "**on active duty, in the reserves, or in the national guard**".

Page 1, line 12, after "in the" insert "**United States**".

Page 1, line 12, delete "service of the".

Page 1, line 13, delete "United States".

Page 2, line 3, after "serving" insert "**on active duty, in the reserves, or in the national guard**".

Page 2, line 3, after "in the" insert "**United States**".

Page 2, line 3, delete "service of the".

Page 2, line 4, delete "United States".

(Reference is to HB 1327 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1489, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-23-25-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. The fund consists of:**

(1) amounts appropriated under section 6 of this chapter;

(2) other amounts appropriated by the general assembly;

(3) amounts transferred from the industrial rail service fund under IC 8-3-1.7-2(a)(4); and

(4) donations, grants, and money received from any other source.

SECTION 2. IC 8-23-25-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. Money from the high speed rail development fund may be ~~disbursed to the Interstate Rail Passenger Advisory Council under IC 8-3-19-2.~~ **used for the following costs associated with the development of a high speed passenger rail system in Indiana:**

(1) Design costs, including the costs of environmental impact studies.

(2) Planning costs.

(3) Improvement costs, including track upgrades and rail grade crossing improvements.

(4) Any other costs the department determines are necessary to develop a high speed passenger rail system in Indiana.

SECTION 3. IC 8-23-25-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. There is annually appropriated to the fund an amount equal to four-hundredths**

percent (0.04%) multiplied by:

(1) the total amount of state gross retail and use taxes collected under IC 6-2.5-10-1 during the immediately preceding state fiscal year, if the total amount collected is at least four billion nine hundred thirty million dollars ($4,930,000,000); or

(2) zero (0), if the total amount of state gross retail and use taxes collected under IC 6-2.5-10-1 during the immediately preceding state fiscal year is less than four billion nine hundred thirty million dollars ($4,930,000,000);

from the state general fund for the uses described in section 4 of this chapter.

(Reference is to HB 1489 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

KROMKOWSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1552, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 6.

Page 2, line 4, delete "Land may be classified as wildlands if the" and insert "**Open areas may exist within the confines of a parcel of land identified as a native forest or a forest plantation if the open areas do not exceed the lesser of five (5) acres or ten percent (10%) of the total area to be classified under this chapter and if the open areas contain any of the following:**".

Page 2, delete lines 5 through 8.

Page 2, line 21, delete "wildlands" and insert "**a non-forest area**".

Page 2, line 33, after "land" delete ",".

Page 2, line 33, after "land," reset in roman "or".

Page 2, line 33, after "plantation," delete ", or".

Page 2, line 34, delete "wildlands".

Page 2, line 34, reset in roman "ten (10)".

Page 2, line 34, delete "fifteen (15)".

Page 2, line 40, after "land" delete ",".

Page 2, line 40, after "land," reset in roman "or as".

Page 2, line 40, after "plantation" delete ", or".

Page 2, line 41, delete "wildlands".

Page 3, line 5, after "land" delete ",".

Page 3, line 5, after "land," reset in roman "or as".

Page 3, line 5, after "plantation" delete ", or".

Page 3, line 6, delete "wildlands".

Page 3, line 11, delete ",".

Page 3, line 11, reset in roman "or as".

Page 3, line 12, delete ", or wildlands".

Page 4, line 7, delete ",".

Page 4, line 7, reset in roman "or as".

Page 4, line 8, delete ", or wildlands".

Page 4, line 30, delete ",".

Page 4, line 30, reset in roman "or as".

Page 4, line 31, delete ", or wildlands".

Page 4, delete lines 33 through 39.

Page 5, line 3, reset in roman "forest".

Page 5, line 3, after "forest" delete ".".

Page 5, line 7, strike "(a)".

Page 5, delete lines 19 through 22.

Page 5, line 25, delete ",".

Page 5, line 25, reset in roman "or as".

Page 5, line 26, delete ", or wildlands".

Page 5, line 35, reset in roman "or as".

Page 5, line 36, delete ", or wildlands" and insert ".".

Page 6, line 2, after "land" delete ",".

Page 6, line 2, after "land" reset in roman "or as".

Page 6, line 2, after "plantation" delete ", or".

Page 6, line 3, delete "wildlands".

Page 6, line 14, delete ",".

Page 6, line 14, reset in roman "or as".

Page 6, line 15, delete ", or wildlands".

Page 6, line 32, after "land" delete ",".

Page 6, line 32, reset in roman "or as".

Page 6, line 32, delete ", or wildlands".

Page 6, line 40, after "land" delete ",".

Page 6, line 40, reset in roman "or as".

Page 6, line 40, delete ", or wildlands".

Page 7, delete lines 16 through 20.

Page 7, delete lines 29 through 42.

Page 8, delete lines 1 through 2.

Page 8, delete lines 19 through 42.

Delete page 9.

Page 10, delete lines 1 through 27, begin a new paragraph and insert:

"SECTION 39. IC 14-8-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 65. "Dealer" has the following meaning:

(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-2.

~~(2) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-2.~~

~~(3)~~ **(2)** For purposes of IC 14-24, **the term** means a person who grows or buys nursery stock for the purpose of reselling or reshipping the stock in Indiana.".

Page 11, line 9, delete "IC 14-16-2" and insert "**IC 14-16-1**".

Page 11, line 10, delete "IC 14-16-2-8" and insert "**IC 14-16-1-30**".

Page 12, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 41. IC 14-8-2-188 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 188. "Operate" has the following meaning:

(1) For purposes of IC 14-15, the act of navigating, driving, steering, sailing, rowing, paddling, or otherwise moving or exercising physical control over the movement of a watercraft.

(2) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-4.

~~(3) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-3.~~

SECTION 42. IC 14-8-2-190 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 190. "Operator" has the following meaning:

(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-5.

~~(2) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-4.~~

~~(3)~~ **(2)** For purposes of IC 14-34, except IC 14-34-4-8 and IC 14-34-8-4, a person, partnership, limited liability company, or corporation engaged in coal mining who removes or intends to remove more than two hundred fifty (250) tons of coal from the earth by coal mining within twelve (12) consecutive months in one (1) location.

~~(4)~~ **(3)** For purposes of IC 14-34-4-8, the meaning set forth in IC 14-34-4-8.

~~(5)~~ **(4)** For purposes of IC 14-34-8-4, the meaning set forth in IC 14-34-8-4.

~~(6)~~ **(5)** For purposes of IC 14-36-1, the meaning set forth in IC 14-36-1-9.

~~(7)~~ **(6)** For purposes of IC 14-37, a person who:

(A) is issued a permit under IC 14-37; or

(B) is engaging in an activity for which a permit is required under IC 14-37.

SECTION 43. IC 14-8-2-195, AS AMENDED BY P.L.148-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 195. "Owner" has the following meaning:

(1) For purposes of IC 14-11-4, the meaning set forth in IC 14-11-4-2.

(2) For purposes of IC 14-15, a person who has the legal title to a watercraft.

(3) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-6.

~~(4) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-5.~~

~~(5)~~ **(4)** For purposes of IC 14-25-4, the meaning set forth in IC 14-25-4-4.

~~(6)~~ **(5)** For purposes of IC 14-27-7, the meaning set forth in IC 14-27-7-1.

~~(7)~~ **(6)** For purposes of IC 14-27-7.5, the meaning set forth in IC 14-27-7.5-4.

~~(8)~~ **(7)** For purposes of IC 14-36, the term includes the following:

(A) Owners in fee.

(B) Life tenants.

(C) Tenants for years.

(D) Holders of remainder of reversionary interests.

(E) Holders of leaseholds or easements.

(F) Holders of mineral rights.

~~(9)~~ **(8)** For purposes of IC 14-37, a person who has the right to drill into and produce from a pool and to appropriate the oil and gas produced from the pool for:

(A) the person or others; or

(B) the person and others.

~~(10)~~ **(9)** For the purposes of IC 14-22-10-2, the meaning set forth in IC 14-22-10-2(c).".

Page 12, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 42. IC 14-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is the general intent and purpose of the general assembly in enacting this chapter to promote:

(1) safety for persons and property;

(2) responsible enjoyment in and connected with the use and operation of off-road vehicles **and snowmobiles;** and

(3) understanding consistent with the rights of all the citizens of Indiana.

SECTION 43. IC 14-16-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "dealer" means a person engaged in the commercial sale of off-road vehicles **or snowmobiles.**

SECTION 44. IC 14-16-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) As used in this chapter, "off-road vehicle" means a motor driven vehicle capable of cross country travel:

(1) without benefit of a road; ~~or trail;~~ and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multi-wheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming.

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.

(4) A snowmobile.

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

SECTION 46. IC 14-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this chapter, "operator" means an individual who:

(1) operates; or

(2) is in actual physical control of;

an off-road vehicle **or a snowmobile.**

SECTION 47. IC 14-16-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. As used in this chapter, "owner" means a person, other than a lienholder, who:

(1) has the property in or title to; and

(2) is entitled to the use or possession of;

an off-road vehicle **or a snowmobile.**

SECTION 48. IC 14-16-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. As used in this chapter, "vehicle" refers to an off-road vehicle **or a snowmobile.**

SECTION 49. IC 14-16-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as otherwise provided, ~~an off-road vehicle~~ **the following** may not be operated on public property unless registered:

(1) An off-road vehicle.

(2) A snowmobile.

(b) Registration is not required for a vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.".

Page 13, line 27, delete "IC 14-16-2-8" and insert "**IC 14-16-1-30**".

Page 14, line 20, delete "of one dollar ($1)" and insert "**established by the department**".

Page 14, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 46. IC 14-16-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The owner of a vehicle shall notify the department within fifteen (15) days if any of the following conditions exist:

(1) The vehicle is destroyed or abandoned.

(2) The vehicle is sold or an interest in the vehicle is transferred wholly or in part to another person.

(3) The owner's address no longer conforms to the address appearing on the certificate of registration.

(b) The notice must consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided.

(c) If the surrender of the certificate is required because the vehicle is destroyed or abandoned, the department shall cancel the certificate and enter that fact in the records. The number then may be reassigned.

(d) If the surrender is required because of a change of address on the part of the owner, the department shall record the new address. Upon payment of a fee ~~of one dollar ($1),~~ **established by the department,** a certificate of registration bearing the new information shall be returned to the owner.

(e) The transferee of a vehicle registered under this chapter shall, within fifteen (15) days after acquiring the vehicle, make application to the department for transfer to the transferee of the certificate of registration issued to the vehicle. The transferee shall provide the transferee's name and address and the number of the vehicle and pay to the department a fee ~~of one dollar ($1).~~ **established by the department.** Upon receipt of the application and fee, the department shall transfer the certificate of registration issued for the vehicle to the new owner. Unless the application is made and the fee paid within fifteen (15) days, the vehicle is considered to be without a certificate of registration and a person may not operate the vehicle until a certificate is issued.

SECTION 47. IC 14-16-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. If a certificate of registration is lost, mutilated, or illegible, the owner of the vehicle may obtain a duplicate of the certificate upon application and payment of a fee ~~of one dollar ($1).~~ **established by the department.**

SECTION 48. IC 14-16-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A dealer or manufacturer may obtain certificates of registration for use in the testing or demonstrating of vehicles upon the following:

(1) Application to the department upon forms provided by the department.

(2) Payment of ~~ten dollars ($10)~~ **a fee established by the department** for each of the first two (2) registration certificates. Additional certificates that the dealer requires may be issued ~~at a cost of five dollars ($5) each.~~ **for a fee established by the department.**

(b) An applicant may use a certificate issued under this section only in the testing or demonstrating of vehicles by temporary placement of the numbers on the vehicle being tested or demonstrated. A certificate issued under this section may be used on only one (1) vehicle at any given time. The temporary placement of numbers must conform to the requirements of this chapter or rules adopted under this chapter.

(c) A certificate issued under this section is valid for three (3) years.

SECTION 49. IC 14-16-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. A county, city, or town may pass an ordinance regulating the operation of vehicles if the ordinance meets substantially the minimum requirements of this chapter. However, a county, city, or town may not adopt an ordinance that does any of the following:

(1) Imposes a fee for a license.

(2) Specifies accessory equipment to be carried on the vehicles.

(3) Requires a vehicle operator to possess a driver's license issued under IC 9-24-11 while operating an off-road vehicle or snowmobile.

SECTION 50. IC 14-16-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. An individual shall not operate a vehicle under any of the following conditions:

(1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions **or in a manner that unnecessarily endangers the person or property of another**.

(2) While:

(A) under the influence of intoxicating liquor; or

(B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.

(3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.

(4) In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.

(5) On the frozen surface of public waters within:

(A) one hundred (100) feet of an individual not in or upon a vehicle; or

(B) one hundred (100) feet of a fishing shanty or shelter;

except at a speed of not more than five (5) miles per hour.

(6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.".

Page 14, delete lines 38 through 42.

Page 15, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 48. IC 14-16-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) All law enforcement officers in Indiana ~~including every enforcement officer of the department,~~ shall enforce this chapter.

(b) The attorney general and prosecuting attorneys have concurrent power to approve, file, and prosecute an affidavit charging a violation of this chapter.

SECTION 49. IC 14-16-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. **(a)** The department shall do the following:

(1) Prescribe the form of accident reports and registration certificates and the form of application for the certificates.

(2) Conduct a campaign of education with respect to safety in the operation of vehicles in connection with the use and enjoyment of the public and private land of Indiana and with respect to Indiana laws relating to vehicles.

(3) Construct and maintain vehicle trails on public and private land consistent with the intent of this chapter.

(b) Notwithstanding any other law, the department may purchase land for off-road vehicle and snowmobile trails only from a willing seller of the land.

SECTION 50. IC 14-16-1-29, AS AMENDED BY P.L.158-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) **Except as provided in subsection (b),** a person who violates ~~section 17, 23(2), or 24 of this chapter commits a Class B misdemeanor.~~

~~(b) A person who violates section 8, 9, 11, 12, 13, 14, 18, 19, 20, 21, 23(1), 23(3), 23(4), 23(5), 23(6), 23(7), 23(8), 23(9), 23(10), 23(11), 23(12), 23(13), 23(14), or 27 of~~ this chapter commits a Class C infraction.

(b) A person who violates section 18, 23(1), 23(2), or 24 of this chapter commits a Class B misdemeanor.

SECTION 51. IC 14-16-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. (a) As used in this section, "fund" refers to the off-road vehicle and snowmobile fund established by subsection (b).**

(b) The off-road vehicle and snowmobile fund is established. The fund shall be administered by the department.

(c) The fund consists of the revenues obtained under this chapter, appropriations, and donations. Money in the fund shall be used for the following purposes:

(1) Enforcement of this chapter.

(2) Constructing and maintaining off-road vehicle trails.

(3) Constructing and maintaining snowmobile trails.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

(f) There is annually appropriated to the department from the fund the entire amount of money deposited in the fund from the sources referred to in subsection (c) for the department's use for the purposes set forth in subsection (c).".

Page 20, line 20, reset in roman "geologists,".

Page 20, line 26, reset in roman "geologists,".

Page 22, line 23, delete "IC 6-1.1-6.5-3; IC 6-1.1-6.5-5;".

Page 22, delete lines 24 through 25.

Page 22, line 26, delete "IC 6-1.1-6.5-24; IC 6-1.1-6.5-25;" and insert "IC 14-16-2;".

Page 23, after line 5, begin a new paragraph and insert:

"SECTION 67. P.L.155-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 13. (a) Notwithstanding IC 14-34-13-1 and IC 14-34-13-2, the following reclamation fee schedule applies with respect to coal mining operations for the period beginning April 1, 2002, and ending June 30, ~~2003.~~ **2005:**

(1) All operators of surface coal mining operations subject to IC 14-34 shall pay to the department of natural resources for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of five and five-tenths cents ($0.055) per ton of coal produced.

(2) All operators of underground coal mining operations subject to IC 14-34 shall pay to the department of natural resources for

deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of three cents ($0.03) per ton of coal produced.

(b) After June 30, ~~2003,~~ **2005,** the reclamation fees paid by coal mining operators are the amounts per ton specified in IC 14-34-13-1 and IC 14-34-13-2, as amended by this act.

(c) This SECTION expires January 1, ~~2004.~~ **2006.**

SECTION 68. [EFFECTIVE JULY 1, 2003] **(a) A certificate of registration purchased under IC 14-16-2, before its repeal by this act, before July 1, 2003, is valid for three (3) years from the date of purchase. A valid certificate of registration purchased under IC 16-14-2, before its repeal by this act, satisfies the requirements of IC 14-16-1, as amended by this act.**

(b) This SECTION expires July 1, 2006.

SECTION 69. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1552 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

BISCHOFF, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1729, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

KROMKOWSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1730, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

KROMKOWSKI, Chair

Report adopted.

HOUSE BILLS ON SECOND READING

House Bill 1074

Representative Liggett called down House Bill 1074 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1074–4)

Mr. Speaker: I move that House Bill 1074 be amended to read as follows:

Page 1, line 3, after "(a)" insert "**As used in this section, "customer" means a residential customer of a utility.**

(b)".

Page 1, line 9, delete "(b)" and insert "**(c)**".

Page 1, line 13, delete "(c)" and insert "**(d)**".

Page 2, after line 5, begin a new paragraph and insert:

"**(e) A contractor or subcontractor may not include in a charge to a customer the cost of a meter base supplied by a utility under this section.**".

(Reference is to HB 1074 as printed January 24, 2003.)

AUSTIN

Motion prevailed.

HOUSE MOTION
(Amendment 1074–1)

Mr. Speaker: I move that House Bill 1074 be amended to read as follows:

Page 2, after line 5 , begin a new paragraph and insert:

"(d) A person who installs a meter box outside of the service area of the utility that provided the meter box commits a class A misdemeanor."

(Reference is to HB 1074 as printed January 24, 2003.)

BEHNING

Motion prevailed.

HOUSE MOTION
(Amendment 1074–3)

Mr. Speaker: I move that House Bill 1074 be amended to read as follows:

Page 2, after line 5 , begin a new paragraph and insert:

"(d) A person who installs a meter box for a customer of a utility and intentionally, knowingly, or recklessly charges the customer of a utility for a meter box provided by a utility commits a class A misdemeanor."

(Reference is to HB 1074 as printed January 24, 2003.)

BEHNING

Motion failed. The bill was ordered engrossed.

House Bill 1083

Representative Weinzapfel called down House Bill 1083 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1083–1)

Mr. Speaker: I move that House Bill 1083 be amended to read as follows:

Page 4, between lines 33 and 34, begin a new paragraph and insert:

"**(d) A person outside Indiana who:**

(1) initiates or assists the transmission of a commercial electronic mail message that violates this chapter; and

(2) knows or should know that the commercial electronic mail message will be received in Indiana;

submits to the jurisdiction of Indiana courts for purposes of this chapter.".

(Reference is to HB 1083 as printed January 24, 2003.)

WEINZAPFEL

Motion prevailed.

HOUSE MOTION
(Amendment 1083–2)

Mr. Speaker: I move that House Bill 1083 be amended to read as follows:

Page 4, line 16, delete "against an" and insert "**against:**

(1) an interactive computer service;

(2) a telephone company; or

(3) a CMRS provider (as defined by IC 36-8-16.5-6);

whose equipment is used to transport, handle, or retransmit"

Page 4, line 17, delete "interactive computer service that handles or retransmits".

(Reference is to HB 1083 as printed January 24, 2003.)

WEINZAPFEL

Motion prevailed.

HOUSE MOTION
(Amendment 1083–3)

Mr. Speaker: I move that House Bill 1083 be amended to read as follows:

Page 4, between lines 18 and 19, begin a new paragraph and insert:

"**(c) It is a defense to an action under this section if the defendant shows by a preponderance of the evidence that the violation of this chapter resulted from a good faith error and occurred notwithstanding the maintenance of procedures reasonably adopted to avoid violations of this chapter.**".

Page 4, line 19, delete "(c)" and insert "**(d)**".

(Reference is to HB 1083 as printed January 24, 2003.)

WEINZAPFEL

Motion prevailed. The bill was ordered engrossed.

House Bill 1267

Representative Orentlicher called down House Bill 1267 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1267–2)

Mr. Speaker: I move that House Bill 1267 be amended to read as follows:

Page 1, delete lines 1 through 6.

Page 1, line 9, delete " The provisions of IC 16-39 relating to the" and insert "**Any medical record that is received by an employer or insurance carrier in its review of a worker's compensation claim may be shared only with those employees or independent contractors of the employer or carrier who participate in the review of the worker's claim and may not be disclosed to any other person without obtaining the consent of the worker under IC 16-39-1.**".

Page 1, delete line 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1267 as printed January 24, 2003.)

ORENTLICHER

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1034

Representative Pond called down Engrossed House Bill 1034 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 21: yeas 88, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Lanane.

Engrossed House Bill 1044

Representative Foley called down Engrossed House Bill 1044 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 22: yeas 87, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Rogers.

Engrossed House Bill 1071

Representative Kuzman called down Engrossed House Bill 1071 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 23: yeas 54, nays 36. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Sipes.

Engrossed House Bill 1089

Representative Kersey called down Engrossed House Bill 1089 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 24: yeas 72, nays 18. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Skinner.

Engrossed House Bill 1133

Representative C. Brown called down Engrossed House Bill 1133 for third reading:

A BILL FOR AN ACT concerning transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 25: yeas 71, nays 19. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske, Rogers, Zakas, and Antich.

Engrossed House Bill 1176

Representative Kuzman called down Engrossed House Bill 1176 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 26: yeas 83, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server, Lanane, and C. Lawson.

Representative Foley was excused for the rest of the day.

Engrossed House Bill 1380

Representative Bischoff called down Engrossed House Bill 1380 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 27: yeas 87, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Riegsecker and Lewis.

Engrossed House Bill 1410

Representative Mays called down Engrossed House Bill 1410 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 28: yeas 87, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

Engrossed House Bill 1470

Representative Whetstone called down Engrossed House Bill 1470 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 29: yeas 86, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Riegsecker and L. Lutz.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1003, 1139, 1144, 1257, 1265, and 1552 had been referred to the Committee on Ways and Means.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1034, Roll Call 21, on January 28, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the machine did not record my vote. I intended to vote yea."

NOE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 21 to 88 yeas, 0 nays. The corrected roll call is printed with this Journal.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1044, Roll Call 22, on January 28, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the machine did not record my vote. I intended to vote yea."

NOE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 22 to 87 yeas, 0 nays. The corrected roll call is printed with this Journal.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1176, Roll Call 26, on January 28, 2003. In support of this petition, I submit the following reason:

"I was present but unable to vote; I intended to vote yea."

AUSTIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 26 to 83 yeas, 4 nays. The corrected roll call is printed with this Journal.*]

HOUSE MOTION

Mr. Speaker: I move that Representative Bosma be added as coauthor of House Bill 1009.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as coauthor of House Bill 1044.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as coauthor of House Bill 1088.

AUSTIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Friend and Scholer be added as coauthors of House Bill 1129.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ayres be added as coauthor of House Bill 1133.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Crawford, Duncan, and V. Smith be added as coauthors of House Bill 1350.

BUCK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Buck be added as coauthor of House Bill 1380.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel and Hasler be added as coauthors of House Bill 1395.

BECKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hasler be added as coauthor of House Bill 1466.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be added as coauthor of House Bill 1521.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Yount, Pelath, and Stevenson be added as coauthors of House Bill 1529.

STILWELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives C. Brown and Reske be added as coauthors of House Bill 1565.

COCHRAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative J. Lutz be added as coauthor of House Bill 1598.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1819.

BEHNING

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1820.

BEHNING

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1821.

BEHNING

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1846.

BEHNING

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1847.

BEHNING

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Chowning, the House adjourned at 3:00 p.m., this twenty-eighth day of January, 2003, until Thursday, January 30, 2003, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives